

**Paper for Consideration by the Acquisition Advisory Panel
Planning, Conducting, and Managing Performance-Based Contracts**

**Top Eight Best Practices from the Front Lines
Submitted by Acquisition Solutions, Inc.**

In our June 1, 2006, comments to you, we stated that we would be conducting additional research, interviews, and discussions preparatory to the development of a white paper *Advisory* on best practices and lessons learned in performance-based management.

On June 8th we assembled a forum of very experienced federal acquisition thought leaders from seven agencies who also have been front-line practitioners of performance-based acquisition and management. We also interviewed six of our most experienced employees. We found that much of what our focus group brought to the discussion was relevant to any acquisition strategy rather than particular to PBA, so we screened their input for PBA-relevant insights. This paper offers these key lessons in the form of the top eight best practices for the Panel's consideration in preparing its final report.

Ultimately, the "performance story" is told in the post-award phase, but the stage needs to be set from the beginning. Therefore, we have divided the best practices into pre- and post-award categories to focus on the unique lessons relevant to each phase of the acquisition.

Pre-award Best Practices

- ❑ **Plan for post-award contract management in the pre-award phase of the acquisition**

While FAR 7.105 provides that written acquisition plans must address contract administration, mission-critical performance-based buys require much more comprehensive planning. We have described an approach to performance-based management that sets forth six disciplines: cultural transformation, strategic linkage, governance, communication, risk management, and performance monitoring. Planning for—and beginning to execute—these disciplines begins early in the acquisition life cycle.

For example, for some agencies, just doing a performance-based acquisition requires cultural transformation. Our employees commented on this. It takes training and readiness on many levels: an understanding of performance-based techniques, a ready attitude, a well-prepared team (with structure, policies, and a communications plan), and the management skills needed to oversee performance-based contract work. Other success factors are (1) to evaluate the competing contractors' proposed approaches to contract performance management and measurement and (2) to keep the critical members of the government team on the project after award.

Strategies for governance, risk management and performance monitoring are especially important during pre-award and post-award. An employee observed that in one case, “the post-award phase was not formalized,” which was especially problematic when there was a “changing of the guard” to different people to manage the contract after award.

One of our Associates commented, “At [my former agency] I had all major acquisitions develop a formal contract management plan (per an internal guide on how to develop one) *before or contemporaneously* with award of the contract. The ‘best practice’ was to engage the [Source Selection Evaluation Board] in the development effort because of their insight into contract requirements and the contractor’s proposal. Obviously, this was to ensure that all the contract admin[istration] functions, most particularly those performed outside the immediate contract organization, were actually understood and performed and integrated by the right people consistent with the contract expectations and to enable the government to hit the ground running.”

If you do not begin post-award planning well before the contract is awarded, you will have dramatically increased the likelihood of failure.

❑ **Take time with market research, especially if the acquisition will lead to transformational change**

One participant credited his agency’s year of market research as important to transformational change management. (As to the year, his agency had also taken the position that “if anyone asked, we had to talk to them.”) In response, another participant said that her agency had “set rules for market research.” Another said, “It really opened my eyes. We’d always done it ‘that way’ ... and ‘that way’ was not the best.”

Often agencies believe that they have already done their homework. One of our employees observed that an agency he had helped initially considered more market research to be wasted time, but it ultimately helped inform the development of the Statement of Objectives and “it paid off in the end.” The result was a highly successful performance-based acquisition that won kudos from the program office. In another case, our team convinced an agency to test the market one more time. The agency released a Request for Information, found more companies, and brought them in to learn more. As one employee said, “You are learning what industry knows.”

❑ **Overcome resistance to due diligence**

Start with the simple fact that the more potential offerors know about your requirement, the better their proposals will be. One forum participant said that “the lawyers choke on due diligence ... and the potential for release of proprietary information ... but if you can’t do due diligence, you’re in trouble.” Many techniques have been used to help the vendors learn: data dumps on CDs, in libraries, and websites; background information

briefings; facility tours; industry days; and question-and-answer meetings directly with government staff.

Our employees agree with the effectiveness of the approach. “Due diligence worked extremely well in all instances.” One noted, “vendors gave high praise for the process and the openness provided by the agencies.” It leads to better solutions and better proposals.

- ❑ **Release budget information to enable contractors to correctly size the solution**

You don’t want the “supersize” solution when you have a “kid’s meal” budget. In one case, the agency team was not allowed by their legal office to release budgetary information, so they were bid solutions they couldn’t afford. All this does is waste time and money.

FAR 15.306(e) (3) allows agencies to provide offerors budget information. While the specific paragraph is titled “Exchanges with offerors after receipt of proposals,” it also includes this language: *“It is also permissible, at the Government’s discretion, to indicate to all offerors the cost or price that the Government’s price analysis, market research, and other reviews have identified as reasonable...”*

Having this information allows all offerors to adjust their mix of resources and helps in sizing their solution and developing proposals that are affordable.

Post-Award Best Practices

- ❑ **Start right, provide resources, and manage through it**

Begin active contract management with the kick-off meeting. Use that meeting to reiterate the governance model, communications strategy, risk management process, and performance monitoring approach. Ask the question from the moment of contract award, “How are we going to be successful?”

What is “due diligence”?

The term “due diligence” is used in acquisitions to describe the period and process during which an agency affords competitors the time and opportunity to become knowledgeable about its needs in order to propose a competitive solution. Due diligence usually includes site visits, meetings with key agency people, and research and analysis necessary to develop a competitive solution tailored to agency requirements. Due diligence is afforded to competitors separately. In other words, contractor teams have access to agency personnel without their competitors present.

Does the FAR support the use of due diligence?

Yes. The Federal Acquisition Regulation (FAR) permits exchanges of information between the government and contractors—and even requires the government to protect that information. Even when the rule-laden FAR Part 15 competitive procedures are used, due diligence is conducted before receipt of proposals, making communications with potential offerors “exchanges with industry before receipt of proposals” (FAR 15.201).

Does the FAR support answering a contractor’s questions “one on one” during due diligence?

Yes, the FAR completely supports this process. While fundamental information should be collected and made available to all the prospective offerors, there is no prohibition against contractors asking questions and an agency representative or team responding during a private meeting. In fact, FAR 15.201(c) promotes the use of one-on-one meetings as a means of early exchanges of information with potential offerors.

Monitor contractor performance beginning the day of contract award. If it emerges that there's not a shared understanding of performance, fix it immediately. In the cases discussed at our forum where performance problems emerged, agency teams recognized the problem within the first few months and began to take means to correct it. One participant said that his team had used monitoring tools, and found faster than they would have otherwise that "the ship was about to hit the shoals."

In another case, the agency just did not make the investment in contract performance management. One of our employees said, "The Government only had one person for a billion-dollar effort. The agency never staffed up to manage the work."

- ❑ **Make sure that a knowledgeable and engaged governance board and process are in place**

Building on the best practice above, forum participants recommended establishing a Project Management Office and using processes and tools like project performance managers, project reviews, earned value management, and a strong independent validation and verification capability. One forum participant said, "We found the bleeding early and stopped it." Another said, "We saw it early on and hit hard." Another said, "We make a practice to escalate quickly."

- ❑ **Establish an Award Fee Board and stick to the performance review schedule**

A powerful method of managing performance is the use of an Award Fee Board with a *regularly adhered to* performance review schedule. But remember to conduct training and include the entire team. One participant advised that training all participants in the Award Fee process at the same time would have made the Board more effective.

- ❑ **Be prepared for change.**

It's important to understand that there is no "silver bullet," nor the "perfect contract." The situation begins to change as soon as the ink is dry. Sometimes the government is the cause, sometimes the contractor, but more often than not the cause is shared. In one case *discussed at the forum*, a *solution was* dependent on the use of shared facilities which had been established (pre-award) as acceptable. Post-award the agency position changed, dramatically affecting one critical condition on which the contractor had based the solution and pricing. The result? The performance-based solution began to "unpeel."

In reality, the only constant is change. Expect it and build the flexibility to change into the contract. Expecting flawless execution sets up failure.

Conclusion

It is Acquisition Solutions' view that problems sometimes attributed to performance-based acquisition are symptomatic of the difficulty in conducting and managing complex procurements *of any type*. Acquisitions today are often "grand scale," huge in scope, *mission critical, largely services oriented, often developmental, and may require the*

support of multiple industries and contractor providers. These big buys can compel the need for unprecedented alliances on contractor teams, which can add performance risk.

It is also our view that the advantage of using performance-based acquisition and management techniques is that you have a better framework for meeting the challenges and solving problems, because results-based performance expectations are established in the contract. It is the team's responsibility to manage for performance so the measures are met and the outcomes achieved.